**IN THE DISTRICT COURT OF THE UNITED STATES**
**FOR THE WESTERN DISTRICT OF NORTH CAROLINA**
**ASHEVILLE DIVISION**

**CRIMINAL NOS. 1:07CR37 & 1:07CR55**

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| **UNITED STATES OF AMERICA** | ) | |
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| **VS.** | ) | **O R D E R** |
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| **JOEBEN OREN MARTIN** | ) | |
| _____ | ) | |

**THIS MATTER** is before the Court on the Defendant's motion for a bond hearing for consideration of his release pending sentencing in order to continue his cooperation with law enforcement officials. The motion is denied.

Release or detention of a defendant pending sentencing is controlled by 18 U.S.C. § 3143(a) which provides in pertinent part:

> [T]he judicial officer shall order that a person who has been found guilty of an offense and who is awaiting imposition or execution of sentence . . . be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released[.]
>
> . . .
>
> The judicial officer shall order that a person who has been found guilty of an offense described in subparagraph . . . (C) . .

> . of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless-
>
> (A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or
>
> (ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and
>
> (B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.

**18 U.S.C. § 3143(a)(1), (2).** Section 3142(f)(1)(C) refers to a drug crime for which the maximum term of imprisonment is 10 years or more.

The Court finds that the Defendant has admitted the elements of the crimes of using or carrying a firearm during and in relation to a drug trafficking crime, possession of a firearm by a convicted felon, and possession with the intent to distribute methamphetamine during his Rule 11 hearing. **Rule 11 Inquiry and Order of Acceptance of Plea, filed July 2, 2007; *see also*, Plea Agreement, filed June 27, 2007.** The Defendant faces a substantial term of imprisonment exceeding 10 years. As a result, he cannot meet any of the requirements of the statutes which would otherwise allow him to be released pending sentencing. Alternatively, since the Defendant's sentencing hearing is scheduled for January 29,

2008, his release to cooperate with law enforcement authorities would be short term.

**IT IS, THEREFORE, ORDERED** that the Defendant's motion for a bond hearing is **DENIED.**

Signed: January 4, 2008

Lacy H. Thornburg
United States District Judge